

DEPARTMENT OF HEALTH PROFESSIONS-DIRECTIVES

DIRECTIVE NO: 5.5

EFFECTIVE: 11/8/2000

APPROVAL _____ **SUPERSEDES:** _____

5.5 Principles/Establishment of Fees

Purpose: The purpose of this directive is to provide guidance to health regulatory boards when establishing fees mandated by § 54.1-2400.5 of the *Code of Virginia*.

Definitions: As used in this document the following definitions apply:

“*Expired license*” means a license that has not been renewed and, generally may be made current by the payment of the past due renewal fee together with a late penalty payment. Typically the time period of an expired license is no more than one renewal period from the date of its expiration.

“*Lapsed license*” means a license that has not been made current following a period of time after its expiration, usually one full renewal period. Typically restoration of a lapsed license will require reinstatement.

“*Reinstatement*” means the return of a license after having lapsed. This typically will require the filing of an application, which is intended to present evidence that an individual is competent to practice.

“*Renewal*” means the periodic requirement to continue licensure involving payment of a fee and possibly attestation of compliance with other requirements.

- Principles:**
1. Boards should promptly address the need to adjust fees to avoid both the collection of unnecessary revenue or sharp increases in fees. Rule making should rely on official estimates provided by the Deputy Director for Finance of revenue and expenditures as well as the account balances.
 2. Renewal fees should cover the board’s cost of discipline, inspections, The Health Practitioners’ Intervention Program, enforcement of continued competency requirements, policy development and general overhead. Historically renewal fees represent 80% to 90% of total board’s revenue.
 3. Initial application fees should be fashioned to cover the following components:
 - A. Credential review (at possibly several levels)
 - B. Examination costs when paid by the board
 - C. An appropriate portion of the license fees (renewal costs) relative to the period that the initial license will be issued prior to its first renewal
 - D. Cost of preparation and delivery of any wall certificate
 - E. Other activities associated directly with initial license issue

4. Dishonored check, duplicate license, and wall certificate fees should be based on cost estimates provided by the Deputy Director for Finance upon consideration of the need for fee adjustments.

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5. Unless there is clear evidence that indicates a reason to establish fees otherwise, renewal fees for all occupations should be consistent across occupational categories within a health regulatory board. Reasons that may lead to alternative renewals may include differences in rates of discipline, requirements for inspections, document review, re-qualification as well as reasons related to fairness and equity.
6. In determining the methodology for establishing licensure fees, boards may consider prorating certain fees as a means for equitably assessing costs. Factors such as increased administrative cost and delays in licensure resulting in delayed employment should be considered in making a determination on prorating fees.¹
7. Inactive Licenses:
 - A. Steps should be taken to clearly notify and notice inactive licenses (and inactive license applicants) that they may not practice.
 - B. Inactive renewal fees should typically be lower than fees associated with a corresponding active license. Estimates of costs associated with active licenses such as responding to allegations of misconduct, the Health Practitioner Intervention Program and enforcement of continued competence requirements, should be excluded. Included in an inactive license fee would be cost of overhead, processing, newsletters etc. While each inactive fee should be board specific a review of several budgets indicates that it may likely be 45 to 50% of the active fee.

¹

It is unknown at the time of application for initial licensure if the applicant will qualify. Applicants may be ineligible because they fail to subsequently submit required information (such as transcripts, verification from other states, references, etc.), do not meet substantive requirements (education, experience, moral character, etc.) or fail to pass one or more examinations. While most candidates are eventually found eligible, it is impossible to predict when or if any given candidate will be licensed.

Therefore, in order to prorate an initial 'license fee' for the current period of licensure it would require the assessment, after the determination of eligibility, of each newly qualified candidate (N=25,000 to 30,000 per year). This represents a new series of transactions. To accomplish this we will need to incur a cost to program automated systems to generate assessments in various occupational categories. In addition to generating the assessment the agency will be required to receive and account for the additional payment. This task could possibly be contracted out as we do with a number of lock box transactions. All exceptions to lock box transactions however, are handled in house. The activity will result in administrative cost including manpower. Nevertheless, it could be accomplished.

Prorating of fees will have negative impact on prompt licensing of providers. It is likely that this will add a minimum of 14 days and likely average 21 days to the time it will take to issue a license (the period to generate an assessment, mailing out, writing of a check, return mail, and accounting for the fee). In many cases a candidate is legally prohibited from employment, or working until the license is in hand. Also many private employers will make licensure a condition of employment or salary increase. Therefore, the equity that may be achieved by prorating fees will not be of sufficient value to lead to its implementation. As most applicants are seeking to initiate practice in Virginia using a middle point "license fee" as the component portion of initial application fee will often be appropriate.

- C. Fees for activation of an inactive license should include such components as credential review fees and a portion (possibly prorated) of the

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difference between an active license (renewal) fee and the inactive licensing (renewal) fee already paid for the remainder of the instant licensing period.

- D. Substantive requirements for activation from an inactive license should be consistent with the reinstatement of a lapsed license where the period of being inactive is the same as period of the lapse (See 10 below).
8. Fees for services that represent small costs (such as a license verification, which may cost less than \$5.00) should be avoided. Total expenses for many such activities are an exponent of the number of applicants, licensees, examinees, etc. Therefore, small cost items may be appropriately incorporated in the determining component items when setting renewal, application and examination fees.
9. As a general policy the issuance of a license after it has expired should require the payment of a penalty that acts as an incentive to pay promptly and remain in compliance with applicable laws. Therefore a late penalty ranging no more than 25% to 35% of the base renewal fee may be appropriate for a license that has expired. An expired license may be renewed upon payment of a penalty fee for the single renewal period following expiration.
10. After the passage of the renewal period, reinstatement of the license (now lapsed) may be mandated which will result in a review of credentials, re-examination or other substantive qualification requirements. Reinstatement application fees should parallel the component cost of initial application fees less any item that is not clearly associated with the cost of reinstatement such as an initial examination or a wall certificate. In the case of reinstatement of a lapsed license that involves review of continued education hours or other evidence of competency to practice, the fee should include the renewal fee, a late fee and a credential review fee. If possible, the process for restatement of lapsed license should not create an incentive for allowing a license to lapse.